

§ 200.89

34 CFR Ch. II (7–1–05 Edition)

§ 200.89 [Reserved]

Subpart D—Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent, or At-Risk of Dropping Out

SOURCE: 67 FR 71736, Dec. 2, 2002, unless otherwise noted.

§ 200.90 Program definitions.

(a) The following definitions apply to the programs authorized in part D, subparts 1 and 2 of Title I of the ESEA:

Children and youth means the same as “children” as that term is defined in § 200.103(a).

(b) The following definitions apply to the programs authorized in part D, subpart 1 of Title I of the ESEA:

Institution for delinquent children and youth means, as determined by the SEA, a public or private residential facility that is operated primarily for the care of children and youth who—

(1) Have been adjudicated to be delinquent or in need of supervision; and

(2) Have had an average length of stay in the institution of at least 30 days.

Institution for neglected children and youth means, as determined by the SEA, a public or private residential facility, other than a foster home, that is operated primarily for the care of children and youth who—

(1) Have been committed to the institution or voluntarily placed in the institution under applicable State law due to abandonment, neglect, or death of their parents or guardians; and

(2) Have had an average length of stay in the institution of at least 30 days.

Regular program of instruction means an educational program (not beyond grade 12) in an institution or a community day program for neglected or delinquent children that consists of classroom instruction in basic school subjects such as reading, mathematics, and vocationally oriented subjects, and that is supported by non-Federal funds. Neither the manufacture of goods within the institution nor activities related to institutional maintenance are considered classroom instruction.

(c) The following definitions apply to the local agency program authorized in part D, subpart 2 of Title I of the ESEA:

Immigrant children and youth and limited English proficiency have the same meanings as the term “immigrant children” is defined in section 3301 of the ESEA and the term “limited English proficient” is defined in section 9101 of the ESEA, except that the terms “individual” and “children and youth” used in those definitions mean “children and youth” as defined in this section.

Locally operated correctional facility means a facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age. The term also includes a local public or private institution and community day program or school not operated by the State that serves delinquent children and youth.

Migrant youth means the same as “migratory child” as that term is defined in § 200.81(d).

(Authority: 20 U.S.C. 6432, 6454, 6472, 7801)

§ 200.91 SEA counts of eligible children.

To receive an allocation under part D, subpart 1 of Title I of the ESEA, an SEA must provide the Secretary with a count of children and youth under the age of 21 enrolled in a regular program of instruction operated or supported by State agencies in institutions or community day programs for neglected or delinquent children and youth and adult correctional institutions as specified in paragraphs (a) and (b) of this section.

(a) *Enrollment.* (1) To be counted, a child or youth must be enrolled in a regular program of instruction for at least—

(i) 20 hours per week if in an institution or community day program for neglected or delinquent children; or

(ii) 15 hours per week if in an adult correctional institution.

(2) The State agency must specify the date on which the enrollment of neglected or delinquent children is determined under paragraph (a)(1) of this section, except that the date specified must be—

(i) Consistent for all institutions or community day programs operated by the State agency; and

(ii) Represent a school day in the calendar year preceding the year in which funds become available.

(b) *Adjustment of enrollment.* The SEA must adjust the enrollment for each institution or community day program served by a State agency by—

(1) Multiplying the number determined in paragraph (a) of this section by the number of days per year the regular program of instruction operates; and

(2) Dividing the result of paragraph (b)(1) of this section by 180.

(c) *Date of submission.* The SEA must annually submit the data in paragraph (b) of this section no later than January 31.

(Approved by the Office of Management and Budget under control number 1810-0060)

(Authority: 20 U.S.C. 6432)

§§ 200.92–200.99 [Reserved]

Subpart E—General Provisions

SOURCE: 67 FR 71738, Dec. 2, 2002, unless otherwise noted.

§ 200.100 Reservation of funds for school improvement, State administration, and the State academic achievement awards program.

A State must reserve funds for school improvement, State administration, and State academic achievement awards as follows:

(a) *School improvement.* (1) To carry out school improvement activities authorized under sections 1116 and 1117 of the ESEA, an SEA must first reserve—

(i) Two percent from the sum of the amounts allocated to the State under section 1002(a) of the ESEA for fiscal years 2002 and 2003; and

(ii) Four percent from the sum of the amounts allocated to the State under section 1002(a) of the ESEA for fiscal year 2004 and succeeding years.

(2) In reserving funds under paragraph (a)(1) of this section, a State may not reduce the sum of the allocations an LEA receives under section 1002(a) of the ESEA below the sum of the allocations the LEA received under

section 1002(a) for the preceding fiscal year.

(3) If funds under section 1002(a) are insufficient in a given fiscal year to implement both paragraphs (a)(1) and (2) of this section, a State is not required to reserve the full amount required under paragraph (a)(1) of this section.

(b) *State administration.* (1) An SEA may reserve for State administrative activities authorized in sections 1004 and 1903 of the ESEA no more than the greater of—

(i) One percent from each of the amounts allocated to the State or Outlying Area under section 1002(a), (c), and (d) of the ESEA; or

(ii) \$400,000 (\$50,000 for the Outlying Areas).

(2)(i) An SEA reserving \$400,000 under paragraph (b)(1)(ii) of this section must reserve proportionate amounts from each of the amounts allocated to the State or Outlying Area under section 1002(a), but is not required to reserve proportionate amounts from section 1002(a), (c), and (d) of the ESEA.

(ii) If an SEA reserves funds from the amounts allocated to the State or Outlying Area under section 1002(c) or (d) of the ESEA, the SEA may not reserve from those allocations more than the amount the SEA would have reserved if it had reserved proportionate amounts from section 1002(a), (c), and (d) of the ESEA.

(3) If the sum of the amounts allocated to all the States under section 1002(a), (c), and (d) of the ESEA is greater than \$14,000,000,000, an SEA may not reserve more than one percent of the amount the State would receive if \$14,000,000,000 had been allocated among the States under section 1002(a), (c), and (d) of the ESEA.

(4) An SEA may use the funds it has reserved under paragraph (b) of this section to perform general administrative activities necessary to carry out, at the State level, any of the programs authorized under Title I, parts A, C, and D of the ESEA.

(c) *State academic achievement awards program.* To operate the State academic achievement awards program authorized under section 1117(b)(1) and (c)(2)(A) of the ESEA, an SEA may reserve up to five percent of the excess